

601 KAR 1:080. Household goods carriers.

RELATES TO: KRS Chapter 281

STATUTORY AUTHORITY: KRS 281.600

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 requires the Transportation Cabinet to establish reasonable requirements with regard to continuous and adequate service of transportation. This administrative regulation provides for the rules and administrative regulations concerning household goods carriers.

Section 1. Determination of Weights. (1) Tare weight. The tare weight of each vehicle in the transportation of household goods shall be determined by having it weighed prior to the transportation of each shipment, without the crew thereon, by a certified weigh master or on a certified scale; and, when so weighed the fuel tank on each vehicle shall be full and the vehicle shall contain all blankets, pads, chains, dollies, hand trucks, and other equipment needed in the transportation of such shipment.

(2) Gross weight. After the vehicle has been loaded, it shall be weighed without the crew thereon prior to delivery of the shipment.

(3) Net weight. The net weight shall be determined by deducting the tare weight from the gross weight.

(4) Constructive weight. If no adequate scale is located at origin or any point within a radius of ten (10) miles thereof, a constructive weight, based upon seven (7) pounds per cubic foot of properly loaded van space, may be used. Such a constructive weight may also be used for a part load where the circumstances are such that its scale weight could not be obtained at origin, en route, or at destination without first unloading it or other part loads being carried in the same vehicle.

(5) Part loads. In the transportation of part loads, this rule shall apply in all respects, except that the gross weight of a vehicle containing one (1) or more part loads may be used as the tare weight of such vehicle as to part load subsequently loaded thereon. A part load, not exceeding 10,000 pounds for any one (1) shipper, may be weighed on a certified scale prior to being loaded on the vehicle. Such part shall be acknowledged by a weigh ticket evidencing such weighing.

(6) Driver's weight certificate. Whenever weights are required to be obtained pursuant to these rules, the carrier shall cause to be executed a weight certificate for each shipment, in the form specified by the cabinet, at the time the last necessary weight is obtained, and the original or a copy of such certificate shall be carried in the vehicle transporting the shipment and shall be displayed upon request of the party paying the carrier's charges. The original or a true copy of such certificate shall be maintained by the carrier as part of its record of shipment.

Section 2. Establishment of Rates for Accessorial Services. Every irregular route common carrier or "household goods" authorized to operate in intrastate commerce in Kentucky shall, in addition to the tariff filing requirements of 601 KAR 1:060, establish the charges to be made for each accessorial or terminal service rendered in connection with the transportation of household goods by motor vehicle. The tariffs establishing such charges shall separately state each service to be rendered and the charge therefor, provided that such tariffs may state an hourly labor charge applicable to miscellaneous labor service performed at the request of a shipper in connection with the transportation, when a rate is not separately stated in the tariff for the service so requested. The charges so established for packing and unpacking shall be in amounts per container, and those for other services shall be separately stated on a unit or hourly basis, whichever is appropriate. No charge so established shall be lower than the cost of performing the service. This section shall apply only where the transportation is performed by a motor carrier. The rate for transportation of such goods shall not include the charge for any accessorial service and no such services other than those for which sepa-

rate charges have been so established shall be rendered by any such carrier.

Section 3. Discounts Prohibited; Rates Based on Prepayment Charges Prohibited. No discount of any character whatsoever shall be authorized by tariff provisions or otherwise allowed by any such common carrier, and no rates or charges shall be established based upon prepayment of charges.

Section 4. Prohibition Against Carrier Acting as Agent for Another Carrier. No such common carrier shall act as agent for any other such common carrier in the solicitation of shipments of household goods, in intrastate commerce, between points which such agent is authorized to serve and for which it shall have established different rates than those of its principal.

Section 5. Insurance Provisions. (1) Requirements for procurement of all-risk insurance for shippers. No such common carrier or any employee, agent or representative thereof, may offer to procure insurance for any shipper except under the following conditions:

(a) The shipper must be fully advised of the carrier's constitutional liability and of the carrier's unlimited liability for any damage resulting from his negligence.

(b) Any insurance which the carrier may offer to procure for the shipper must be of an "all-risk" nature covering any damage in transit or temporary storage regardless of the cause.

(c) Insurance procured by the carrier shall be in the amount declared by the shipper. Any charges therefor may be added to the regular tariff charges but may not exceed the actual cost of the insurance.

(d) Any insurance procured by the carrier shall name the shipper as the direct beneficiary, and the shipper shall be provided with a copy of the policy of insurance or evidence of application therefor prior to the movement of his household goods.

(2) Liability of carrier unaffected. The shipper's purchase or refusal to purchase an insurance policy in no way affects the legal liability of such common carrier.

(3) Purchase of insurance by carrier. Nothing in this section shall preclude such common carrier from procuring in its own name insurance covering its liability for loss or damage to household goods transported by it.

Section 6. Receipt for Bill of Lading; Information Thereon. (1) Issuance of a receipt or bill of lading. No such common carrier shall issue a receipt or bill of lading for household goods to be transported in intrastate commerce prior to receiving such household goods for such transportation, but common carriers must issue such receipt or bill of lading when such household goods are received.

(2) Information required on receipt or bill of lading. Whenever a receipt or bill of lading is issued in compliance with the preceding subsection, the carrier shall cause to be included therein the following information:

(a) The name of the motor carrier (not the agent's name) which will transport the shipments; if shipment is to be interlined, the names of the connecting carriers provided they are known when the shipment is received.

(b) The name, address, and telephone number of the office of the carrier that should be contacted in relation to the shipment, should there be a need for such contact.

(c) The name, address, and telephone number of a person to whom notification provided for in subsection (3) of this section shall be given, except when this cannot be obtained from the shipper.

(d) The preferred delivery date or the period of time within which delivery of the shipment may be expected to be made at destination.

(3) Notification of delay in delivery. Whenever a carrier is unable to make delivery of a shipment of household goods on the date or during the period specified in the receipt or bill of lading, the carrier shall notify the shipper, or person designated by the shipper, by telegram or telephone, at the

carrier's expense, of the date on which delivery of the shipment will be made such notification to be given not less than twenty-four (24) hours prior to the date or during the period shown on the receipt or bill of lading except when the circumstances causing the delay occur at a later time, in which case the notice shall be given as soon as possible but in no event more than twenty-four (24) hours after the occurrence, provided, that the requirements of this paragraph shall not apply where the carrier is unable to obtain from the shipper an address or telephone number for such notification.

Section 7. Freight Bill; Information Thereon. (1) Issuance of a freight bill. Every irregular route common carrier of household goods shall issue a freight bill for household goods transported in intrastate commerce upon delivery of such household goods.

(2) Information required on freight bill. Whenever a freight bill is issued in compliance with subsection (1) of this section, the carrier shall cause to be included therein the following information:

(a) Name and address of the motor carrier who transported the shipment.

(b) Name and address of shipper and address of origin of shipment.

(c) Name and address of consignee and address of destination of shipment.

(d) If the charges for the transportation services performed were based upon weight and mileage, the freight bill shall set forth the gross and tare weights of the vehicle; the net weight of the shipment; the mileage; the applicable rate per 100 pounds; and the charges for transportation.

(e) If the charges for the transportation services performed were based upon hourly rates, the freight bill shall set forth the number of men furnished; the time started; the time finished; the deductions from time for interruptions; the total time for which charged; the rate per hour; and charges for transportation.

(f) If accessorial services were rendered in connection with transportation services, the charges for each such accessorial service shall be itemized on the freight bill.

Section 8. Liability of Carriers. No common carrier shall be permitted to contract for relief from its common law liability.

Section 9. Estimates of Charges. (1) Estimates by the carrier. Whenever an estimate of the charges for a proposed service shall be given by a carrier to a prospective shipper of household goods, the estimate shall be made only after a visual inspection of the goods by the estimator. Such estimate shall be in the form specified by the cabinet. The form shall be fully executed as appropriate in each case in accordance with the instructions therein. The original or a true legible copy of each estimate form prepared in accordance with this paragraph shall be delivered to the shipper; and a copy thereof shall be maintained by the carrier as part of its records of shipment. The shipper shall not be permitted or required to sign the "estimated cost of services" form.

(2) Estimate form for shipper's use. Carriers may furnish to shippers or prospective shippers an estimate form which may contain statements of the weights of average pieces of furniture and other household articles of various types, for use by the shipper in making his own estimate of the total weight of his goods. Any instructions necessary to enable the shipper to use the estimate form shall be printed in the form. If cubic-foot measurements are used in arriving at the weight, the form shall state that a weight factor of seven (7) pounds per cubic foot shall be used.

(3) Specific request of shipper for notification. Whenever the shipper specifically requests notification of the actual weight and charges on a shipment, the carrier shall comply with such request immediately upon determining the actual weight and charges, by telephone or telegraph if so requested. Such notification shall be at the carrier's expense in instances in which notification would be required under subsection (4) of this section and in all other instances unless the carrier provides in its tariff that the actual cost of such notification shall be collected from the shipper. Such notification shall be made no later than twenty-four (24) hours prior to the time the shipment is offered for delivery.

ery except where the shipment is in transit less than twenty-four (24) hours.

(4) Notification to shipper where charges exceed estimate. Whenever actual charges on any shipment exceed by more than ten (10) percent or twenty-five (25) dollars, whichever is greater, any estimate of charges given by the carrier to the shipper, immediately upon determining the actual charges, the carrier shall notify the shipper of the amount thereof by telegram or telephone at the carrier's expense. Such notice shall be made no later than twenty-four (24) hours prior to the time the shipment is offered for delivery, except where the shipment is in transit less than twenty-four (24) hours; provided, that this paragraph shall not apply:

(a) Where credit is to be extended by the carrier; and

(b) Where the shipper has not supplied, upon request by the carrier, an address or telephone number at which the communication would be received.

(5) Report of underestimates. Every irregular route common carrier of household goods shall file quarterly with the Transportation Cabinet, a report of all instances during that quarter in which the actual charges for services rendered exceeded the estimates of such charges by ten (10) percent or more, or twenty-five (25) dollars or more, whichever is greater, with an explanation of reasons for the variances. Such reports shall be filed on or before April 30, July 31, October 31 and January 31 for the quarter ended as of the last day of the preceding month.

(6) Reweighing. The carrier shall, upon request, made by the shipper, owner or consignee, before delivery and when practicable to do so, reweigh the shipment. A reasonable charge may be established for reweighing only when the difference between the two (2) net scale weights does not exceed 100 pounds on shipments weighing 5,000 pounds or less, and two (2) percent of the lower net scale weight on shipments weighing more than 5,000 pounds. The lower of the two (2) net scale weights shall be used for determining applicable charges.

(7) Order for services shall not show charges or estimates. There shall not be shown on any form in the nature of a "moving order" or "order for service" which may be used by carriers of households goods any charges or estimates of charges nor any reference to any estimate of charges given to the shipper.

Section 10. Absorption or Advancement of Dock Charges. Irregular route common carriers of household goods shall not absorb any dock or other charge made by any warehouseman, nor shall any such carrier advance any such charge for the account of any shipper, owner, or other person, except upon the authorization of such person. Whenever such charges are advanced on behalf of the shipper, the carrier shall obtain a receipt therefor from the warehouseman and deliver it to the shipper or the person designated by the shipper at the time the advanced charges are made.

Section 11. Information for Prospective Shippers. During the course of the first interview with every prospective shipper, every carrier of household goods shall cause to be given to the prospective shipper a summary of information in the form specified by the cabinet. Such summary shall be printed on one (1) sheet in not less than eight-point bold of full-faced type and shall contain the heading, "Important Notice to Shippers of Household Goods." The carrier's name, address, and telephone number may be shown on the sheet if that is desired. If no personal interview is had with the shipper, the carrier shall cause such summary to be mailed to the shipper on or prior to the day on which the order for service is placed. The carrier shall make an appropriate notation on the receipt or bill of lading that such summary has been furnished.

Section 12. Minimum Weight Shipments. No common carrier shall accept a shipment of household goods for transportation which appears to be subject to the minimum weight provisions of the carrier's tariff without first having advised the shipper of such minimum weight provisions. (DMT-10; 1 Ky.R. 789; eff. 5-14-75.)